

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JESSE JAMES OZUNA, JR.,

Case No. 14-CV-3047 (JRT/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MOWER COUNTY JAIL
ADMINISTRATION AND EMPLOYEES;
MINNESOTA DEPARTMENT OF
CORRECTIONS; ST. CLOUD
CORRECTIONAL FACILITY STAFF;
FARIBAULT CORRECTIONAL FACILITY
STAFF; and MOWER COUNTY
COMMISSIONER OF CORRECTIONS,

Defendants.

Plaintiff Jesse James Ozuna, Jr. commenced this action by filing a complaint seeking relief for alleged violations of his constitutional and statutory rights. *See* ECF No. 1. He did not pay any filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). In an order dated August 28, 2014, this Court informed Ozuna that he would be required to either sign his IFP application or file a supplemental IFP application bearing his original signature within 20 days — that is, by September 17, 2014. Ozuna was also informed that he would be required to pay a partial initial filing fee of \$10.00 by that date. Finally, this Court explained to Ozuna that failure to perform either of these tasks would result in a recommendation that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

The September 17 deadline has now passed. Ozuna has not signed his original IFP application or filed a supplemental IFP application, and he has not paid the required partial

initial filing fee. In fact, Ozuna has not communicated with this Court at all since the August 28, 2014 order was entered. Accordingly, this Court now recommends, in accordance with the prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

[Continued on next page.]

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS**
HEREBY RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Jesse James Ozuna's application to proceed *in forma pauperis* [ECF No. 2] be **DENIED AS MOOT**.
3. Ozuna's motion to provide list [ECF No. 5] be **DENIED AS MOOT**.
4. Ozuna's motion to grant immunity [ECF No. 7] be **DENIED AS MOOT**.
5. Ozuna's motion for order [ECF No. 9] be **DENIED AS MOOT**.
6. Ozuna's motion for temporary relief [ECF No. 12] be **DENIED AS MOOT**.

Dated: September 26, 2014

s/ Tony N. Leung

Tony N. Leung
United States Magistrate Judge

*Ozuna v. Mower County Jail Administration
and Employees et al.*

Case No. 14-cv-3047 (JRT/TNL)

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 27, 2014**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.